IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION No.18428 of 2003

Dated: 07.12.2006

Between

Samala Satyam (died)

Samala Vijaya Laxmi and two others.

..... PETITIONERS

And

The Commissioner, Municipal Corporation

of Warangal, Warangal District and

two others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION No.18428 of 2003

ORDER:

Though the interlocutory matters are listed, at the request of learned counsel appearing for either of the parties, the writ petition itself is being disposed of, having regard to the nature of the relief sought for.

The petitioners filed this writ petition, under Article 226 of the Constitution of India, seeking a writ of Mandamus declaring the action of the respondents in seeking to lay a road across their land covered by Sy.Nos.27-B and 28-B admeasuring Ac.0-10 guntas situated at Shyampet Village, Hanamkonda Mandal, Warangal District, without initiating proceedings under the Land Acquisition Act, 1894 (for short 'the Act') or paying compensation to them, as illegal and arbitrary.

The petitioners claim to be the owners and possessors of an extent of Ac.0-10 guntas of land situated in Sy.Nos.27-B and 28-B of Shyampet Village, Hanamkonda Mandal, Warangal District. It is their grievance that the respondents-authorities are trying to lay a road in their private land and also made markings for the said purpose in their land, without initiating any proceedings under the Act or without paying any compensation to them.

Separate counter-affidavits are filed by the first respondent-Commissioner of Municipal Corporation of Warangal as well as by the second respondent-Vice-Chairman, Kakatiya Urban Development Authority, Warangal.

In the counter-affidavit filed by the first respondent, making of markings in the land belonging to the petitioners for the purpose of laying the road as per the Master plan was denied. But, in the counter-affidavit filed by the second respondent, it was stated that master plan for development of the city of Warangal was sanctioned vide G.O.Ms.No.910 (Municipal Administration), dated 25.11.1971, and as per the said master plan, the road passes through the land of the petitioners. It is further stated that though the officials have demarcated all the Master plan roads including the 80 feet road, which is passing through the land of the petitioners, no further steps were taken to lay the road therein, except making markings as per the Master plan in the land of the petitioners.

No doubt, the master plan is prepared under the provisions of A.P. Urban Areas (Development) Act, 1975. Even for the development purposes i.e., for laying road as per the master plan, etc., if the private lands of the individuals are affected, the

respondents have to notify the same for acquisition under Section 18 of the Act or they can acquire the property by private negotiations under Section 18 (a) of the Act.

Admittedly, in this case, no proceedings have been initiated either under Section 18 or under Section 18 (a) of the Act. Inasmuch as it is admitted by the second respondent in the counter-affidavit that the Master plan road is passing through the land of the petitioners and the markings have already been made, I dispose of the writ petition directing the respondents that if the road is to be laid through the land of the petitioners, they have to proceed in accordance with the provisions of Section 18 or Section 18 (a) of the Act; and the petitioners shall not be deprived of their property as otherwise under due process of law.

Subject to the above directions, the writ petition is disposed of. No order as to costs.

_____ R.SUBHASH REDDY, J

07.12.2006

DR